

MINUTES

**CITY OF WARR ACRES
REGULAR CITY COUNCIL MEETING
TUESDAY
SEPTEMBER 21, 2004
7:00 P.M.**

1. The meeting was called to order at 7:00 p.m. Declaration of a quorum present was given. The Flag salute was lead by Captain Kenny Koger and the Invocation was given by John Tardibono.

ROLL CALL

PRESENT

Mayor Marietta Tardibono
Vice-Mayor Tom Smith
Councilman Jimmy Alexander
Councilwoman Leslie Owens
Councilman Mike Gossman
Councilman Bob Wehba
Councilman Justin Frisbie
Councilman Barry Curl
Councilwoman Nancy Olson

ABSENT

DEPARTMENT HEADS AND CONSULTANTS PRESENT

Pamela McDowell-Ramirez, City Clerk
Roger Patty, Police Chief
Kenny Koger, Fire Captain
Bob Jernigan, City Attorney
Scott Barrett, City Engineer
Wiley Rice, Jr., City Planner

2. Questions and Comments from Warr Acres Residents.

The Mayor read a letter commending Officer Hobbs and Reserve Officer Anderson on the way they handled a disruptive patient at Manor Care.

Items 7, 21, and 24 were all heard before the meeting was recessed to enter into the Economic Development Meeting.

3. Recess to enter into the Warr Acres Economic Development Authority Meeting.

Motion by Owens, second by Frisbie to recess to enter into the Economic Development Meeting. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

A recess was taken at 7:57 p.m. and they returned and entered into the Economic Development Meeting at 8:04 p.m.

Convene as Warr Acres Economic Development Authority.

1. Approval of Minutes of the Meeting of Economic Development Authority Regular Meeting of August 17, 2004 and Special Meeting of August 24, 2004 continued to August 26, 2004. ****

Motion by Frisbie, second by Wehba to approve the minutes. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

2. Discussion and possible action on setting policies towards businesses and possibly entering into Executive Session as allowed under 25 O.S. Supp 307 (10), All nonprofit foundations, boards, bureaus, commissions, agencies, trusteeships, authorities, councils, committees, public trusts, task forces, or study group supported in whole or part by public funds, or entrusted with the expenditure of public funds for purposes of conferring on matters pertaining to economic development, including the transfer of property, financing, or the creation of a proposal to entice a business to locate within their jurisdiction if public disclosure of the matter discussed would interfere with the development of products or services or if public disclosure would violate the confidentiality of the business.

Motion by Frisbie, second by Gossman to enter into executive session asking Scott Barrett, Wiley Rice, Richard Farriss, Kory Warr and his attorney and partner. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

The Trust entered into executive session at 8:07 p.m.

Trustee Alexander left the chamber at 9:15 p.m. and returned at 9:17 p.m.

The Trust returned to open session at 9:22 p.m. **WITH NO ACTION TAKEN.**

3. Adjournment of the Warr Acres Economic Development Authority Meeting.

Motion by Frisbie, second by Owens to adjourn. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

The meeting was adjourned at 9:25 p.m.

4. Reconvene City Council Meeting.

The Council meeting reconvened at 9:25 p.m.

Bob Jernigan stepped out at 9:25 p.m. and returned at 9:33 p.m.

5. CONSENT DOCKET: (individual items may be deleted from the consent docket for discussion and action under #6.

- A. Approval of Expenditures – General Fund \$ 49,288.92

Motion by Olson, second by Alexander to approve the expenditures. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

6. Discussion and possible action on items removed from the consent docket.

Moot.

7. Receive reports from Staff: Police, Fire, City Clerk, City Inspector, Street, Sanitation, Sewer, City Engineer, City Planner.

Councilman Alexander-stated he had received many calls about the strong sewer smell on 42nd Street and asked Mr. Seale what could be done about it. Mr. Seale stated that he had put some deodorizer in the line and it helps for a little while. Councilman Alexander asked Mr. Seale to get information on the deodorizer as to the cost and how long it will work. Mr. Seale stated that in the past he had used Bio-guard and it is \$90 per gallon which is too expensive and the problem is a summer problem.

Scott Barrett-updated the council on the MacArthur Project stating that OKC had let the bid for the relocation job and work should start by the end of September.

Councilman Wehba asked Mr. Barrett if he had seen the mess caused by OKC Water at 42nd and stated that he needed to be fixed by OKC.

8. Discussion and possible action on switching the city's cell phone service from AT&T to US Cellular.

Diane with US Cellular stated that she understood that AT&T had told the city that they would charge \$175 per line for the contracts that had not expired. This amount would be \$1400 for 8 lines. She stated the city would still save money with US Cellular. He stated that there would be unlimited incoming calls, two times the minutes. She also stated that there would be 8 phones that would share minutes based on past usage and 8 others that were individual for higher usage. Chief Patty stated that they had been having trouble with dropped calls and bad service and that US Cellular uses more towers. Diane stated that they use PCS, analog and US Cellular towers. She told the council that US Cellular has been around for about 10 years, in Tulsa for 4 years and are just now moving into the metro.

Motion by Owens, second by Curl to approve the switch to US Cellular and authorizing the staff to work out the contract with the proper governmental wording. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

9. Discussion and possible final approval of a contract with Cox Communication for phone service.

Bob Jernigan stated that he had been working with Todd Davis from Cox and they were able to workout the governmental wording in the contract. The council asked Mr. Davis if there was any problem with portability of the numbers and he stated that there was not.

Motion by Wehba, second by Gossman to approve the contract with Cox Communications. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

10. Final Public Hearing, discussion and possible action on a Sign Variance for 5833 NW Highway concerning additional building signage. Applicant: Incredible Pizza, Mark Wessell, agent. ****

Mr. Wessell and Mr. Mullen were present to field questions from the council. Councilman Curl asked if the Ordinance was followed in calculating the size of the sign. The Mayor stated that Mr. Turman had been working with them on the

signage. Wiley Rice stated that the total square footage was under what was allowed it was just split into several signs instead of one large sign. There were several questions asked concerning the square footage of the building they would be using. And also if there were any plans for the remaining portion of the building. Mr. Mullen stated that at the Springfield location the other portion holds a party supply store and at the Tulsa location the other portion is a paint ball facility. He stated that whatever goes in the other portion will be compatible to the family entertainment center. Councilman Curl asked if the land owner and the building owner approved of their facility. Mr. Mullen stated that they had been in negotiations for almost a year on this location and everyone was happy. He stated that they will hire a full time marketing person for this location and about 200-300 other personnel.

Motion by Smith, second by Olson to close the Public Hearing. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

Motion by Owens, second by Gossman to approve the sign variance for the building signs per the square footage as presented on the plans. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

11. Final Public Hearing, discussion and possible action on a Sign Variance for 5833 NW Highway concerning an electronic animation street sign. Applicant: Incredible Pizza, Mark Wessell, agent. ****

Councilman Wehba asked if the sign would be words only and not the video that was originally proposed. He was told there would be no video from inside. Councilman Curl stated that in the past they have restricted the flash per second on LED signs to once per second and that he would also like to see the address placed on the sign. Wiley Rice stated that it meet with the size requirements. He also stated that the sign will be good for the property. Councilman Curl asked about security. Mr. Mullen told the council that there are cameras everywhere, they place a high priority on safety and no child leaves without an adult. Councilman Smith asked how much larger the proposed sign was than the sign that is currently on the lot. He was told it is about twice the size.

Motion by Olson, second by Gossman to close the Public Hearing. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

Motion by Owens, second by Gossman to approve the variance for the street sign not to exceed one flash per second, sign permit to be reviewed by the Engineer and the Inspector to insure it meets the right of way set back, to read Warr Acres instead of Oklahoma City's and plan version 2 dated 9-17-04. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

12. Final Public Hearing, discussion and possible action on a Sign Variance for 5851 NW 63rd continuation of an existing variance for a sign advertising Woodcreek II Housing addition. Applicant, Mayfair Commercial Management. ****

Reggie Smith spoke for the applicant and stated that 3 of the 8 houses have been sold and they would like to have an extension of 6 more months for the sign variance. Bob Jernigan stated that there had been frustration concerning the sign when the right of way issue on MacArthur came up and the city had to pay for the sign and the moving of the sign. Mr. Smith stated that he did not know anything about that.

Councilman Frisbie stepped out at 9:46 and turned at 9:48.

Motion by Curl, second by Owens to close the Public Hearing. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

Motion by Curl, second by Alexander to approve the extension on the sign variance for 6 months. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, nay; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed.

13. Final Public Hearing, receive recommendation of the Planning Commission, discussion and possible action on repealing Title 19 Section 19.60.020(A).

Councilman Gossman stated that after meetings with Councilman Curl, Inspector Turman, and City Planner Rice the decision was made to leave everything as it is.

This item did not require any action.

Under item 14 the motion was made to close the Public Hearing on this item.

14. Final Public Hearing, discussion and possible action on recommendations from the Planning Commission for a Special Use Permit for a proposed car rental office at 5577 NW Highway. Applicant: David Herren. **(Recommendation from Planning Commission was to approve the Special Use Permit) ******

Mr. David Herren was present to address any questions from the council. He was asked if he had any problem with the recommendation from the Planning Commission and he stated that he did not.

Motion by Wehba, second by Curl to close the Public Hearings on Item 13 and Item 14. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

Motion by Wehba, second by Curl to approve the Special Use Permit subject to the recommendations of the Planning Commission. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

15. Final Public Hearing, discussion and possible action on recommendations from the Planning Commission for a Special Use Permit for a proposed insurance office at 4201 N MacArthur. Applicant: Mark Stewart. **(Recommendation from Planning Commission was to approve the Special Use Permit with the stipulations that there will be no parking permitted on the right of way on MacArthur or 41st Street) ******

Mrs. Stewart was present to answer questions. Councilman Wehba asked if there was a variance already on the property for the parking. Mrs. Stewart stated that she did not understand how the Planning Commissions recommendations could work because it left them with no parking for customers. Councilman Wehba stated that the Planning Commission did the only thing they could do by Ordinance. The Mayor asked if they could get a Revocable permit for parking. Wiley Rice stated that they could.

Motion by Smith, second by Wehba to close the Public Hearing. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

Motion by Smith, second by Frisbie to approve the Special Use Permit in accordance with the recommendation of the Planning Commission and in conjunction with a Revocable Permit for continued parking on the Right-of-way

on MacArthur and NW 41st Street subject to any other requirements of BOA case 00-05. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

16. Final Public Hearing, discussion and possible action on recommendations from the Planning Commission for a Special Use Permit for a proposed service office at 3848 N MacArthur. Applicant: Jeff Olbert (MollyMaid). **(Recommendation from Planning Commission was to approve the Special Use Permit) ******

Councilman Curl asked Mr. Olbert if he had any problem with the recommendations of the Planning Commission and he stated that he did not.

Motion by Wehba, second by Alexander to close the Public Hearing. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

Motion by Wehba, second by Frisbie to approve the Special Use Permit with the recommendations of the Planning Commission. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

17. Final Public Hearing, discussion and possible action on recommendations from the Planning Commission for a Special Use Permit for a proposed dental office at 3919 N MacArthur. Applicant: Larry Wimmer. **(Recommendation from Planning Commission was to approve the Special Use Permit) ******

Ashley Wilstaff was present to answer questions. She stated that he manages the two other locations. The council asked if the owner had any problem with the recommendations of the Planning Commission and she stated that he did not.

Motion by Wehba, second by Frisbie to close the Public Hearing. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

Motion by Wehba, second by Curl to approve the Special Use Permit with the recommendations of the Planning Commission. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

18. Approval of Emergency Clause on Ordinance #998. Ordinance was approved at the September 7th meeting.

Motion by Gossman, second by Frisbie to approve the emergency clause for Ordinance #998. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, nay; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed.

19. A. Discussion and possible action on Ordinance #999 amending certain Police fines.

B. Approval of Emergency Clause on Ordinance #999.

Bob Jernigan stated that he was still working on the changes.

Motion by Wehba, second by Gossman to continue the item to the October 5, 2004 meeting. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

20. A. Discussion and possible action on Ordinance #1000 amending certain Animal Control codes.

B. Approval of Emergency Clause on Ordinance #1000.

Bob Jernigan stated that he was still working on the changes. Councilwoman Owens stated that she still did not like the license fee.

Motion by Wehba, second by Curl to continue the item to the October 5, 2004 meeting. Poll vote: Alexander, yea; Owens, nay; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed.

21. Discussion and possible action on bid specs and approval to request bids for a new Front-end loader Sanitation truck.

Councilman Wehba stated that this item needed to be continued so that they would have time to see what the survey results concerning the purchase of a new truck revealed. Earl Hayes stated that something needed to get done they can not

keep waiting. Either pay the \$23,000 to fix the old one and all the other repairs it needs or allow the bid process to proceed.

Motion by Gossman, second by Smith to approve the bid specs and approval to continue with the bid process. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

22. Discussion and possible action on paying ODOT \$6,400 for the City's commitment for Intersection Modification and Traffic Signal Upgrade at the intersection of SH-3 & MacArthur Blvd. and approving the Mayor and City Clerk to execute the agreement. ****

Scott Barrett stated that in October 2003 the agreement read the estimate was \$2,400. He stated that he called Mr. Harold Smart with ODOT twice but had not received a call back. He stated that he thought the added cost was going to be in connection with the moving of the signal loops. Bob Jernigan said that since there was a Resolution in the past that set out the \$2,400 then if it is approved then it needed to be by Resolution to indicate the change to \$6,400.

Motion by Wehba, second by Frisbie to continue this item to the October 5, 2004 meeting with a Resolution changing the amount to \$6400. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

23. Discussion and possible action on a Supplemental Appropriations to the Police Department in the amount of \$12,500 in order for the Chief to purchase a used unit from Missouri Highway Patrol to replace the unit recently totaled in an accident. Approval to send two police personnel to retrieve the unit from Missouri. The city will be receiving a check from insurance that will almost cover the amount of the appropriation, estimated to be \$10,000-\$11,000.

Councilman Gossman asked if they could get a car from Utah and he was told that the Chief called but they did not have any cars right now and that this one was being held for a few days for us.

Motion by Wehba, second by Owens to approve the Supplemental Appropriation of \$12,500 and approve sending two personnel to Missouri to pick up the unit. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

24. Discussion and possible action on a claim filed by Pat Garner in reference to a sewer back up which has been recommended for denial by our insurance company. ****

The council asked if Mrs. Garner was present and she was not. The Clerk stated that she had spoken with Mrs. Garner and advised her that the item would be on the agenda and told her that she could come and speak to the council concerning the item if she wanted to. The council asked Mr. Seale if it was the city's main and he stated that it was not.

Motion by Olson, second by Gossman to deny the claim based on the recommendation of OMAG and Brad Seale. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

25. Questions and comments from Council members.

Councilwoman Owens-informed the public that October 8th was the last day to register to vote in the up coming elections. She also asked if some street signs could be changed out since they were old and faded. She also told the council that she would not be present for the October 5th meeting.

Councilman Wehba-asked for items concerning a K-9 unit be placed on the agenda for the October 5th meeting.

Bob Jernigan-wanted to bring to the councils attention that in the last legislative session a bill was approved setting election dates by the Election Board and that there may be a need to change the Charter. He stated that he would get them more information later.

Mayor Tardibono-told that the first Wednesday in October starting with Ward I would begin fall Big Trash pick-up and would continue each Wednesday in October until all four wards were done.

Councilman Frisbie-said that he had received complaints about the tall grass behind the property on Comanche. Bob Jernigan stated that if it is the easement then the city needed to mow it. The Mayor stated that the Street Department was really short-handed and they would get it as soon as they could.

Councilman Curl-said that in the last legislative session the passed a bill outlining the way "Specific Use Permits" were to be handled and the city is already in complete compliance with the new law.

26. Any Old or New Business (“New Business” is defined by the Open Meeting Act as any matter not known about or which could not have been reasonably foreseen prior to the time of posting of the agenda of a (“surprise nature”)).

Moot.

27. Discussion and possible action on contract and negotiations with FOP Lodge #145 and International Association of Firefighters Local 2374 and the City of Warr Acres, including discussion and action on entering into Executive Session as allowed under 25 O.S. Supp. 307 (B) (2), Discussing negotiations concerning employees and representatives of employee groups.
28. Discussion and action on granting Pete Markstone with a \$1800 salary increase to put his salary above that of the Lieutenants and granting \$1000 to the following employees, Roger Patty, Rob Carter, Polly Shelton, Bobby Grigsby, Mark O’Connor, and Jesus DeLoera who were topped out when merits were given for the Fiscal year 03-04 pursuant to Title 2, Section 2.36.025. Including discussion and action on entering into executive session as allowed under 25 O.S. Supp. 307 (B) (1), Discussing the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any individual salaried public officer or employee.

Motion by Owens, second by Frisbie to enter into executive session with Tony Puckett and Chief Patty to stay. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

The Council entered into executive session at 10:29 p.m.

Councilman Curl and Mayor Tardibono each stepped out at 10:57 p.m. and returned at 11:00 p.m.

The Council returned to open session at 11:19 p.m. **WITH NO ACTION TAKEN.**

Motion by Curl, second by Owens to accept the tentative agreement with the FOP Lodge #145 without FMLA and direct the Mayor, City Clerk and Attorney to execute the 2004-2005 contract. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

29. Adjournment.

Motion by Smith, second by Owens to adjourn the meeting. The meeting was adjourned at 11:20 p.m. by acclamation.

Respectfully submitted,

Pamela McDowell-Ramirez
City Clerk